

**PROCEEDINGS BEFORE THE
WASHINGTON STATE
BOARD OF ACCOUNTANCY**

In the matter of the Certified Public Accountant
(CPA) Certificate and/or License(s) to Practice
Public Accounting of:

Roy D. Ovist, CPA,
Individually and as Owner of
Ovist & Howard CPAs, and

Ovist & Howard CPAs,

Respondents.

No. ACB-1337

Stipulation and Agreed Order

The Washington State Board of Accountancy (Board) and Roy D. Ovist, CPA and Ovist & Howard CPAs (Respondents) stipulate and agree as follows:

Section 1: Procedural Stipulations

- 1.1 Respondents understand that the State is prepared to issue a statement of charges in this matter and proceed to a hearing before the Board upon the merits of said charges although the State has not done so, in order to facilitate resolution of this matter in accordance with the legislative intent endorsed in RCW 34.05.060.
- 1.2 Respondents understand that should the State prevail at hearing based on a statement of charges that the Board has the power and authority to deny, suspend, revoke, or refuse to renew the Respondents' certified public accountant certificate or any individual or firm license to practice public accounting as a certified public accountant in Washington and may impose a fine plus the Board's investigative and legal costs in bringing charges or impose conditions precedent to renewal of the certificate or license, or impose full restitution to injured parties.

- 1.3 Respondents understand that the Respondents have the right to defend against a statement of charges by demanding a hearing and presenting evidence on the Respondents' behalf and Respondents voluntarily waive the right to a hearing and all other rights which may be accorded the Respondents by the Administrative Procedures Act, chapter 34.05 RCW, and the laws of Washington, including the right to petition the courts for judicial review.
- 1.4 Respondents wish to expedite the resolution of this matter by means of this Stipulation and Agreed Order and do not desire to proceed to a formal hearing based on the issuance of a statement of charges.
- 1.5 The Respondents understand that the Stipulation and Agreed Order is not binding unless approved by the Board.
- 1.6 Should this Agreed Order be rejected, Respondents waive any objection to the participation of any members of the Board at a hearing on this matter, other than the consulting Board member in this proceeding.
- 1.7 The parties further stipulate to the following Stipulated Facts, Conclusions of Law and Agreed Order:

Section 2: Stipulated Facts

- 2.1 At all times material hereto, Roy D. Ovist, the Respondent herein, held a Certified Public Accountant (CPA) certificate (No. 04925) and license to practice public accounting in the state of Washington. The Respondent is the sole owner of the CPA firm, Ovist & Howard CPA's (a partnership). At all times material hereto, the CPA firm, Ovist & Howard CPA's, held a valid license (No. 5176) to practice public accounting in the state of Washington.

- 2.2 Respondents failed to timely remit payroll tax (941) withholdings to the US Department of Treasury, Internal Revenue Service (IRS) for the Respondents' CPA firm for the third and fourth quarters of 2008.
- 2.3 Respondents failed to timely remit payroll tax (941) withholdings to the IRS for the Respondents' CPA firm for the first, third, and fourth quarters of 2009.
- 2.4 Respondents failed to timely remit payroll tax withholdings (941) to the IRS for the Respondents' CPA firm during 2010.
- 2.5 On or about January 26, 2012, the IRS issued a Notice of Levy to the Respondents totaling \$230,984.69 including interest and late payment penalty. The IRS alleged the Respondents failed to timely remit payroll tax (941) withholdings for the first and second quarters of 2002 in addition to those stated in paragraphs 2.2 through 2.4. The Respondent is challenging the assessment for 2002.

Based on the foregoing Stipulated Facts, the Board makes the following:

Section 3: Conclusions of Law

- 3.1 The Washington State Board of Accountancy has jurisdiction over the subject matter herein.
- 3.2 The Respondent's acts and omissions described in Stipulated Facts 2.2 through 2.4 constitute cause for Board discipline under RCW 18.04.295(4) for violations of: WAC 425-620 (recodified as WAC 4-30-040) to remain free of conflicts of interest; and WAC 4-25-631 (recodified as WAC 4-30-048) that requires CPAs and CPA firms to comply with the Professional Code of Conduct issued by the AICPA; and WAC 4-25-650 (recodified as WAC 4-30-052) that prohibits a CPA and CPA firm from committing acts reflecting adversely of the CPA or CPA firm's fitness to engage in the practice of public accounting. WAC 4-25-910 (recodified as WAC 4-30-142) identifies the negligent

discharge of a trustee's duties or breaching one's fiduciary duties and violation of one or more of the rules of professional conduct as the bases for the Board to impose discipline.

Section 4: Agreed Order

Based on the Stipulated Facts and Conclusions of Law, the Respondent agrees to entry of the following Order:

- 4.1 The Respondent's CPA certificate, individual license to practice public accounting, and firm license are hereby **SUSPENDED** for five years from the date this Stipulation and Agreed Order is accepted and entered by the Board.
- 4.2 The suspension of the Respondent's CPA certificate, individual license to practice public accounting, and firm license is stayed until seven days following the date the Respondent sells his CPA practice or dissolves his CPA firm or December 31, 2012, whichever date occurs first, provided the Respondent commits no further violations and complies with the terms of this Order.
- 4.3 During the period the suspension is stayed, the Respondent shall provide documentation to the Board to demonstrate to the Board's satisfaction that the Respondent has made the appropriate deposits of payroll taxes and withholdings. The Respondent shall submit the documentation so the Board receives it no later than the 15th day of each month following the date this Stipulation and Agreed Order is accepted and entered by the Board. If Respondent fails to provide the documentation, the Board may vacate the period of stayed suspension and impose the original suspension. The Board may rely upon its own records to vacate the period the suspension is stayed. Prior to imposing the original suspension, the Board will serve the Respondent notice of the Board's intent to vacate the remaining period the suspension is stayed, provide the effective date, and the action, if any, required of

Respondent to cure the condition(s) which led to vacating of the period the suspension is stayed.

4.4 Following the period the suspension is stayed beginning no later than January 1, 2013, the Respondent shall not:

4.4.1 Use the designation "CPA" or "certified public accountant" or hold himself or his firm out as a "CPA" or "certified public accountant" until such time that the Board reinstates the Respondent's license(s).

4.4.2 Use along with, or in connection with, his name or any other name, the title or designation "certified public accountant," "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," "certified public accountant-inactive" or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CPA," "CA," "LA," "LPA," "CPA-Inactive" or "PA," or similar abbreviations likely to be confused with "CPA" until such time that the Board reinstates the Respondent's license.

4.4.3 Sign, affix, or associate his name, firm name, or trade name to any report prescribed by professional standards including reports designated as an "audit," "review," or "compilation," until such time that the Board reinstates the Respondent's individual license and issues a firm license to the Respondent.

4.5 Prior to and as a condition of the reinstatement of Respondent's individual license to practice as a Certified Public Accountant, the Respondent must:

4.5.1 Submit a complete reinstatement application with appropriate fee(s) through the Board's on-line application system or on a form provided by the Board and report the satisfactory completion of qualifying Continuing Professional Education

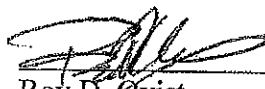
(CPE) required for reinstatement by Title 4 WAC including group or interactive self-study (not non interactive self-study) program of a least four hours in ethics and regulation with specific application to the practice of public accounting in the State of Washington, that is approved by the Board, and completed during the six-month period immediately preceding the Respondent's application for reinstatement. Respondent shall provide the Board, at the time of any such application for reinstatement, supporting documentation of course completion for each course completed.

- 4.5.2 Comply with all conditions for reinstatement required by RCW 18.04 and Title 4 WAC in effect at the time of application for reinstatement.
- 4.5.3 Demonstrate to the Board's satisfaction that the Respondent has paid the past due 941 taxes, interest, and late payment penalty to the IRS in full or is current on any IRS approved installment plan.
- 4.5.4 Reimburse the Board two hundred fifty dollars (\$250) for investigative and legal costs payable to the Washington State Board of Accountancy.
- 4.5.5 Satisfy any other requirements imposed by the Board as a condition for reinstatement.
- 4.5.6 During the period after the acceptance and entry of this Stipulation and Agreed Order Respondent shall not otherwise violate any provisions of chapters 18.04 RCW or Title 4 WAC.
- 4.6 The Board will publish the terms of this Stipulation and Agreed Order.
- 4.7 Any and all costs involved in complying with this Order shall be borne by the Respondent.

- 4.8 Any violation of the terms and conditions of this Agreed Order, chapter 18.04 RCW, and/or Title 4 WAC following the date of acceptance by the Board and notification of such acceptance to the Respondent shall be grounds for denying, suspending, revoking, or refusing to renew the Respondent's certificate and/or license(s) as provided by chapter 18.04 RCW. The terms of this Stipulation and Agreed Order apply to and resolve only the violations referred to herein.
- 4.9 Nothing in this Order precludes the Board from exercising its authority and responsibilities under chapter 18.04 RCW or Title 4 WAC. Any violations of such chapters not herein addressed or of this Order constitute independent grounds as provided for by law for Board action against the Respondent.

I, **ROY D. OVIST**, certify that I have read this Stipulation and Agreed Order in its entirety; that I fully understand and agree to all of it, and that it may be presented to the Board without my appearance. If the Board accepts the Stipulation and Agreed Order, I understand that I will receive a signed copy.

DATED this 1st day of June, 2012.



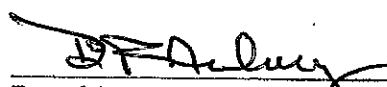
Roy D. Ovist
Respondent

Section 5: Order

The Board accepts and enters this Stipulation and Agreed Order.

DATED this 10th day of JUNE, 2012.

WASHINGTON STATE BOARD OF ACCOUNTANCY



Donald F. Aubrey, CPA
Chair